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By TamaraEllis at 3:58 pm, Jul 22, 2020

United States Court of AppealsFIFTH CIRCUIT
OFFICE OF THE CLERKLYLE W. CAYCE
CLERKTEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

July 22, 2020

#02246831
Mr. Joe L. Lutz
CID Ney Unit
114 Private Road 4303
Hondo, TX 78861No. 20-10723 Joe Lutz v. Sheriff Bill Waybourn, et al
USDC No. 4:18-CV-341 -P

Dear Mr. Lutz,

We have docketed your appeal with the 5th Circuit number shown above. Please use this number in all future contact with the court. **If you have more than one appeal, you will have to comply with the instructions below for each appeal.** Read this letter carefully because you have 45 days to make two decisions **and** to notify us what you want to do, or we may dismiss your appeal without further notice:

The Prison Litigation Reform Act, 28 U.S.C. § 1915, generally requires you to make arrangements to pay the \$505.00 filing fees before this court will consider your appeal. Knowing that you must pay for your appeal, the **first decision** you must make is if you want to continue with your case. If you do not want to continue, you may voluntarily dismiss your appeal now using the attached Form 1. When we get your Form 1 we will dismiss your case and you do not have to do anything more.

If you want your case to continue, the **second decision** you must make is how you will pay the fees. You may either:

(1) Make a one time payment of \$505.00 to the **district court clerk**; or,

(2) Apply to the **district court** for permission to appeal in forma pauperis (IFP). If you want this option you should contact the district court for specific instructions and any forms they have, and should contact your prison authorities for instructions how to get a "certified trust fund account statement." Also, if your prison requires them, you must sign consent forms and authorizations to have money taken from your account. You must send these forms to the district court, along with your motion to proceed on appeal in forma pauperis, your certified trust fund account statement and any other required

documents. If the **district court** grants you permission to appeal IFP, you will have to pay an "initial partial filing fee" calculated by the court. You must pay this initial fee from your inmate trust fund account. If your account does not have enough money to pay the full initial fee, all money in your account will be collected and the remainder taken when more funds exist. After this initial fee is paid, you still will have to pay the rest of the \$505.00 fee from your prison trust fund account.

If you have not already paid the full filing fee to the district court, or applied to the district court for permission to appeal IFP, **you should do so immediately.**

You have **45 days from the date of this letter** to tell us what your decision is on your case. If you want to dismiss your case, send us a completed Form 1. If you want to continue your case, send us a completed Form 2 showing us how you are going to pay for your appeal. If you are using Form 2, please read it very carefully, and then mark one of the three boxes on it. **You must complete and return either Form 1 or Form 2 to us within 45 days of the date of this letter or we may dismiss your appeal without further notice.**

ATTENTION ATTORNEYS: Attorneys are required to be a member of the Fifth Circuit Bar and to register for Electronic Case Filing. The "Application and Oath for Admission" form can be printed or downloaded from the Fifth Circuit's website, www.ca5.uscourts.gov. Information on Electronic Case Filing is available at www.ca5.uscourts.gov/cmecf/.

We recommend that you visit the Fifth Circuit's website, www.ca5.uscourts.gov and review material that will assist you during the appeal process. We especially call to your attention the Practitioner's Guide and the 5th Circuit Appeal Flow Chart, located in the Forms, Fees, and Guides tab.

Sealing Documents on Appeal: Our court has a strong presumption of public access to our court's records, and the court scrutinizes any request by a party to seal pleadings, record excerpts, or other documents on our court docket. Counsel moving to seal matters must explain in particularity the necessity for sealing in our court. Counsel do not satisfy this burden by simply stating that the originating court sealed the matter, as the circumstances that justified sealing in the originating court may have changed or may not apply in an appellate proceeding. It is the obligation of counsel to

obligation to notify the court whenever sealing is no longer necessary. An unopposed motion to seal does not obviate a counsel's obligation to justify the motion to seal.

Sincerely,

LYLE W. CAYCE, Clerk

Claudia N. Farrington

By:

Claudia N. Farrington, Deputy Clerk
504-310-7706

Enclosure(s)

cc w/encl:

Ms. Ann Hahn
Mr. James Thomas Jeffrey Jr.
Ms. Karen S. Mitchell
Mr. Melvin Keith Ogle

FORM 1

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 20-10723

Joe L. Lutz,

Plaintiff - Appellant

v.

Sheriff Bill Waybourn; Paul Duncan, Director, JPS Hospital; John Mills, MD; Joel Fitzgerald; City of Mansfield, Texas; Office of the Attorney General,

Defendants - Appellees

MOTION TO DISMISS APPEAL

Under the provisions of the 5TH CIR. R. 42.1, I hereby move to voluntarily dismiss the appeal in this case.

(name of appellant)

FORM 2

ELECTION OF OPTIONS AND NOTICE TO THE COURT

Fifth Circuit Case Number: 20-10723

Fifth Circuit Case Caption: Joe Lutz v. Sheriff Bill Waybourn,
et al

USDC Case Number: 4:18-CV-341

(To inmate completing this form. Please place an "x" in the appropriate box)

[] On (date) _____, the \$505.00 filing fees were paid to the **district court clerk** of the U.S. District Court for the _____ District of _____. If you have a copy of a receipt from the district court, please attach it.

[] On (date) _____, I applied to the United States District Court for the _____ District of _____ for permission to appeal in forma pauperis (IFP). If you have a copy of the motion to the district court, please attach it.

[] On (date) _____, the United States District Court for the _____ District of _____ granted me permission to proceed on appeal IFP. If you have a copy of the district court's order, please attach it.

YOU MUST COMPLETE AND RETURN THIS FORM WITHIN 45 DAYS OF THE DATE OF THE FORWARDING LETTER OR YOUR APPEAL MAY BE DISMISSED WITHOUT FURTHER NOTICE.

(Name) _____

(Prisoner Number) _____

(Address) _____
